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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/714,550

11/14/2003

William E. Sobel

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EXAMINER

POWERS, WILLIAM S

ART UNIT

PAPER NUMBER

2134

MAIL DATE

DELIVERY MODE

10/03/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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|------------------------------|--------------------------------------|-------------------------------------|--|
| Office Action Summary | Application No. 10/714,550 | Applicant(s) SOBEL ET AL. | |
| | Examiner William S. Powers | Art Unit 2134 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 5-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1 and 3 have been amended.
2. Claims 5-25 have been cancelled.
3. Claims 1-4 are pending.

Response to Arguments

4. Applicant's arguments filed 7/23/2007 have been fully considered but they are not persuasive.
5. As to Applicant's argument that, "[r]eplacing an image with a different image made after imaged components have been upgraded is not the same as changing a configuration setting by modifying a portion of an image" (Remarks, page 4, lines 15-17), the Examiner respectfully disagrees. The "components" of Steele are analogous to the "portion" of the instant application. The Examiner fails to see any distinction between replacing a master image with "a new master image" that has had component(s) patched or upgraded and modifying a portion of an image to create a modified image. The modified image is not the same as the unmodified image, even if only a portion of the unmodified image is modified to create the modified image. For at least the reasons above, the rejection of the claims is maintained.

Response to Amendment

Information Disclosure Statement

6. No Information Disclosure Statement has been filed with the application.

Claim Objections

7. In light of Applicant's amendment, the previous objections to claims 3, 5, 8, 12, 13, 22, 23 and 25 have been withdrawn.

Claim Rejections - 35 USC § 112

8. As claims 5-20 and 23 have been cancelled, the previous 35 USC 112 rejections of the claims have been rendered moot.

Claim Rejections - 35 USC § 101

9. As claims 24 and 25 have been cancelled, the previous 35 USC 101 rejections of the claims have been rendered moot.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. Claim 1-4 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent Application No. 2003/0212716 to Steele et al. (hereinafter Steele).

As to claim 1, Steele teaches:

- a. Providing access to the image to allow the configuration setting to be manipulated (analyzing the backup images) (Steele, paragraphs 59-60).
- b. Identifying the vulnerability in the image (scanning for viruses to ensure the integrity of the backup images) (Steele, paragraphs 59-60).
- c. Eliminating the vulnerability in the image by manipulating the configuration setting or file (applying updates and fixes to the backup images and generating an audit trail to document the changes to the backup images) (Steele, paragraphs 59-60).
- d. Wherein providing access to the image to allow the configuration setting to be manipulated includes providing access to the image in a manner that allow

Art Unit: 2134

the configuration setting to be changed by modifying a portion of the image that is associated with a configuration database in which the configuration setting is stored (the components (portions) of the master image that are subject to upgrades and/or bug fixes are modifying creating a new master image) (Steele, paragraph 60).

As to claim 2, Steele teaches providing access to the file and the configuration setting (applying updates and fixes to the backup images and generating an audit trail to document the changes to the backup images) (Steele, paragraphs 59-60).

As to claim 3, Steele teaches updating the configuration setting (applying updates and fixes to the backup images and generating an audit trail to document the changes to the backup images) (Steele, paragraphs 59-60).

As to claim 4, Steele teaches modifying the file (Steele, paragraphs 59-60).

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William S. Powers whose telephone number is 751 272 8573. The examiner can normally be reached on m-f 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Zand can be reached on 571 272 3811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2134

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


9/28/2007

William S. Powers
Examiner
Art Unit 2134


KAMBIZ ZAND
SUPERVISORY PATENT EXAMINER